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C O N F I D E N T I A L SECTION 01 OF 02 CAIRO 000314

SIPDIS

NSC STAFF FOR ABRAMS/SINGH

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SUBJECT: UPDATE ON THE AYMAN NOUR CASE

REF: 05 CAIRO 9545

Classified by ECPO Minister-Counselor Michael Corbin for reasons 1.4 (b) and (d)

11. (C) Summary: The case of jailed opposition leader Ayman Nour was a focal point of discussions between visiting USG officials, the GOE, and private Egyptians in mid-January. Visiting Congressman Wolf raised the issue with President Mubarak, Interior Minister Adly, Justice Minister Aboul Leil, Trade Minister Rachid, and Gamal Mubarak. Wolf's request to visit Nour in prison, though not explicitly rejected, was not granted "due to the shortness of time." Nour's supporters continue to focus on the legal possibility that Nour's sentence could be suspended pending consideration of his appeal, although President Mubarak explicitly ruled this out in his conversation with Congressman Wolf. The Egyptian media devoted considerable attention to reports in the New York Times and Washington Post linking the postponement of FTA talks with the Nour case. So far there are no indications that the GOE is seeking a quick way out of the Nour problem. The most realistic best case scenario is that Nour's appeal would be heard and accepted by April or May, triggering an interim release pending a retrial. End summary.

12. (C) The issue of jailed opposition leader Ayman Nour figured prominently in U.S.-GOE interactions in January. Congressman Wolf, who visited Egypt January 14-17 (septel) made the case one of his priorities, raising it in his meetings with President Mubarak, Interior Minister Adly, Justice Minister Aboul Leil, and Trade Minister Rachid, as well as ruling party figure (and presidential son) Gamal Mubarak. Wolf emphasized to his Egyptian interlocutors that the jailing of Nour was badly damaging Egypt's reputation in Washington, especially in Congress, at a time when political reform in the Arab World has become a key element of U.S. foreign policy. Wolf also repeated his request (first made on his behalf by the Embassy, prior to his arrival) that he be allowed to visit Ayman Nour in prison. The Egyptians acknowledged the request, and did not explicitly refuse it, although it was not granted "due to a lack of time."

13. (C) Mubarak and his ministers have reiterated the line that Nour's case is in the hands of an independent Egyptian judiciary and not subject to political influence. They emphasized that Nour had received a fair trial, and that he had the right to appeal. (Comment: The fair trial argument is undermined both by the appointment of the same ill-reputed three judge panel that tried and convicted dissident Saad Eddin Ibrahim of "tarnishing Egypt's image" in 2002, and because one of the prosecution's key witnesses recanted, announcing he had been coerced into giving false evidence against Nour. End comment.)

14. (C) Wolf also met in Cairo with Nour's wife, Gameela Ismail, and Hisham Kassem, Vice President of Nour's Ghad Party. (Kassem also discussed the Nour case in a meeting with John Hannah, Vice President Cheney's foreign policy advisor.) In their discussions with Wolf, and in separate discussions with poloffs, Gameela and Kassem have focused on a legal mechanism, "suspension of implementation," that would allow the GOE to release Nour from prison pending consideration of his appeal. This mechanism is often applied on humanitarian grounds, when prisoners are in poor health, Kassem noted. Nour, who suffers from diabetes and heart disease, would appear to be a good candidate.

15. (C) President Mubarak apparently ruled out this avenue in his meeting with Congressman Wolf (septel), insisting that nothing would happen in his case until his appeal is considered. Earlier in January, a sitting judge on the Court of Cassation, which will hear Nour's appeal, predicted to poloff that his case would receive a priority position on the Court's docket, and likely be considered in May or June.

16. (C) Ayman Nour's case continues to figure in the Egyptian media, though most of the attention at this point is focused on the U.S. angle to the case. Al-Masry Al-Youm, Egypt's most prestigious independent daily, gave prominent coverage in its January 18 issue to the Washington Post report that the USG had suspended FTA talks in protest over the GOE's handling of the Nour case. Earlier in the week, the Egyptian media covered prominently Congressman Wolf's request to see

Nour. Interestingly, an early January political cartoon in the pro-government daily Al-Akhbar showed a rustic but wise peasant urging a kindly, patriarchal Mubarak to pardon Ayman Nour, "whether guilty or not."

17. (C) Comment: While the President technically has the power to pardon Nour, there is no precedent for him to exercise this power. Moreover, he is loathe to appear to cave in to foreign pressure, and may indeed (as Nour and his family are convinced) have a personal grudge against him. At this point, the best case scenario appears to be "early" consideration of the appeal by the Court of Cassation - perhaps by April or May - and an overturning of the verdict. That would trigger Nour's interim release, but also a retrial. In the case of Saad Eddin Ibrahim, which has many clear parallels to Nour's, the lower court twice convicted him (he was twice tried by the same panel that tried Nour) before Cassation issued its own definitive acquittal. End comment.

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